

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:  
  
SURGALIGN HOLDINGS, INC., et al.

RYAN MESSNER,

Plaintiff(s),

v.

SURGALIGN HOLDINGS, INC.,

Defendant(s).

Chapter 11

Case No. 23-90731

Adversary Proceeding  
Case No. 23-03150

United States Courts  
Southern District of Texas  
FILED

OCT 25 2023

Nathan Ochsner, Clerk of Court

MOTION TO QUASH SERVICE OF PROCESS

This Motion to Quash Service of Process is made on the grounds that Veronica Polnick, from Jackson Walker LLP, failed to manually serve Plaintiff written notice of motion to dismiss, filed on October 2, 2023. Plaintiff is an unrepresented person, who is not registered as a Filing User in accordance with the Federal Rules of Civil and Criminal Procedure, and the Local Rules of this Court. According to Administrative Procedures for Electronic Filing in Civil and Criminal Cases, Section 10(B), Notice of Court Orders and Judgments, as Amended July 18, 2013, "the Clerk will give notice of orders and judgments by first-class mail to unrepresented persons." As of October 17, 2023, Plaintiff has not received a copy of said notice of motion to dismiss from either Counsel, or the Court Clerk's Office, affecting Plaintiff's ability to respond timely and accurately to said motion.

Counsel utilized the Electronic Case Filing System to serve said motion to dismiss, for which the Plaintiff is not eligible to access due to the pro se status, as defined on the original Complaint with the Court. When asked to clarify whether unrepresented persons can file responses electronically, the Case Manager responded "Only attorneys are allowed to file electronically. You may file your pleadings in-person or by mail."

As a result, Plaintiff is not able to respond to said motion due to not being properly served by Counsel. Counsel filed said motion on day 21, and neglected to serve documents according to Plaintiff's unrepresented status.

Furthermore, it has come to the Plaintiff's attention that Counsel filed motion to dismiss on behalf of the debtor on October 2, 2023, 5 days AFTER Pachulski, Stang, Ziehl, & Jones took over all legal matters for the debtor, effective September 27, 2023.

The Plaintiff's summons' were served to the debtor and its legal counsel on September 11, 2023, as instructed on the docket. Jackson Walker LLP was not served a summons since White & Case LLP was the debtor's primary legal counsel, as defined on the docket. In an effort to understand how Jackson Walker LLP obtained a copy of said summons and what authority Jackson Walker LLP had to file said motion on behalf of the debtor 5 days AFTER termination of legal representation, Plaintiff contacted Veronica Polnick originally on October 13, 2023, with a follow up email on October 16, 2023. As of October 17, 2023, Plaintiff has not received a response to his inquiries. Copies of said correspondence are attached herein as "EXHIBIT A."

The motion to dismiss names David R. Jones as the Judge overseeing this case, which is not accurate. The Honorable Christopher M. Lopez is the presiding Judge in this case.

Plaintiff pleads with the Court to Quash Service of Process, and allow the case to move forward.

RESPECTFULLY SUBMITTED,



Ryan Messner, Plaintiff, pro se  
ryanmessner@hotmail.com  
570 Camphor Way  
Lexington, KY 40509  
859.559.7985

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Motion to Quash Service of Process has been served to Veronica Polnick of Jackson Walker LLP, 1401 McKinney Street, Suite 1900, Houston, TX 77010, via USPS Ground Advantage, on this the 17th day of October, 2023.

  
\_\_\_\_\_  
Ryan Messner



## EXHIBIT A

Fw: Adversary Proceeding Case No. 23-03150

Ryan Messner <ryanmessner@hotmail.com>

Mon 10/16/2023 12:43 PM

To: vpolnick@jw.com <vpolnick@jw.com>

Good Afternoon, Veronica:

As documented and filed on my initial complaint, I am a pro se plaintiff, who does not have the electronic filing privileges as stated in your motion to dismiss below:

RYAN MESSNER.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Adv. Proc. No. 23-03150
	)	
SURGALIGN HOLDINGS, INC.,	)	
	)	
Defendant.	)	

### RULE 12(b)(6) MOTION TO DISMISS

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

Yet, said motion to dismiss was electronically filed on day 21, October 2, 2023, and states that you 'caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas,' as shown below:

Case 23-03150 Document 5 Filed in TXSB on 10/02/23 Page 10 of 10

### CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2023, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Veronica A. Polnick  
Veronica A. Polnick

Since I am not eligible for electronic filing privileges in the Electronic Case Filing System due to my pro se status, have you formally served me manually, and if so, can you please provide me with the Certificate of Service?

Thank you.

**Ryan Messner**

Paralegal | Notary Public, State at Large KY | Certified Remote Online Notary (RON)  
859.559.7985 | ryanmessner@hotmail.com | www.ron-ky.us

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**From:** Ryan Messner

**Sent:** Friday, October 13, 2023 4:27 PM

**To:** vpolnick@jw.com <vpolnick@jw.com>

**Subject:** Adversary Proceeding Case No. 23-03150

Good afternoon, Veronica:

The Court Clerk for the Southern District of Texas, Houston Division, has advised me of your motion to dismiss, filed on October 2, 2023. As of the date of this email correspondence, I have not been served with written notice of said motion, and accordingly, have not been able to respond.

Furthermore, the summons' were served to the debtor and its legal counsel on September 11, 2023, as instructed on the Kroll website and docket. Jackson Walker was not served, and I am attempting to gain clarity as to how Jackson Walker obtained said summons, and under what authority Jackson Walker is authorized to file said motion on behalf of the debtor.

I received an email earlier today, advising that White & Case and Jackson Walker were no longer involved in the debtor's case, effective September 27, 2023, and that Pachulski, Stang, Ziehl, & Jones had taken over all legal matters for the debtor, as of that date.

If Jackson Walker was not a served party and filed said motion on behalf of the debtor on October 2, 2023, 5 days after allegedly no longer being involved in the debtor's case, what validity does the motion have, and who is currently overseeing said motion?

Thank you for your time, and urgent attention to this matter.

Ryan

**Ryan Messner**

Paralegal | Notary Public, State at Large KY | Certified Remote Online Notary (RON)  
859.559.7985 | ryanmessner@hotmail.com | www.ron-ky.us

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